

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

ALVIN BALDUS, CARLENE BECHEN, ELVIRA  
BUMPUS, RONALD BIENDSEIL, LESLIE W DAVIS,  
III, BRETT ECKSTEIN, GLORIA ROGERS, RICHARD  
KRESBACH, ROCHELLE MOORE, AMY RISSEEUW,  
JUDY ROBSON, JEANNE SANCHEZ-BELL,  
CECELIA SCHLIEPP, TRAVIS THYSSEN, CINDY  
BARBERA, RON BOONE, VERA BOONE,  
EVANJELINA CLEERMAN, SHEILA COCHRAN,  
MAXINE HOUGH, CLARENCE JOHNSON,  
RICHARD LANGE, and GLADYS MANZANET

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE and  
RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN, DAVID  
DEININGER, GERALD NICHOL, THOMAS CANE,  
THOMAS BARLAND, and TIMOTHY VOCKE, and  
KEVIN KENNEDY, Director and General Counsel for  
the Wisconsin Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E.  
PETRI, PAUL D. RYAN, JR., REID J. RIBBLE, and  
SEAN P. DUFFY,

Intervenor-Defendants.

VOCES DE LA FRONTERA, INC., RAMIRO VARA,  
OLGA VARA, JOSE PEREZ, and ERICA RAMIREZ,

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KEVIN KENNEDY, Director and General Counsel for  
the Wisconsin Government Accountability Board,

Defendants.

Case No. 11-CV-562  
JPS-DPW-RMD

Case No. 11-CV-1011  
JPS-DPW-RMD

MOTION FOR LEAVE  
TO APPEAR AS AMICUS  
CURIAE

Jesus Rodriguez and Hispanics for Leadership, by their attorneys, Richard M. Esenberg and The Wisconsin Institute for Law & Liberty, Inc., hereby move for leave to file comments as amicus curiae.

The basis for this motion is as follows:

By Order dated March 21<sup>st</sup>, 2012, this Court invited both parties and non-parties to file proposed maps for redrawing Assembly Districts 8 and 9. Those who wished to propose maps as amicus curiae were invited to do so by motion no later than April 3, 2012. Parties wishing to comment, including amicus parties, were to do so no later than April 5.

Mr. Rodriguez and Hispanics for Leadership did not wish to file a map. As someone actively involved in the redistricting process, he does wish to file comments and hereby moves for leave to do so.

Dated this 5<sup>th</sup> day of April, 2012.

Respectfully submitted,  
WISCONSIN INSTITUTE FOR LAW &  
LIBERTY, Inc., Attorneys for Amicus, Rodriguez

/s/ Richard M. Esenberg  
Richard M. Esenberg, WI Bar No. 1005622  
414-727-6367  
[rick@will-law.org](mailto:rick@will-law.org)

MAILING ADDRESS:

Wisconsin Institute for Law & Liberty, Inc.  
1139 E. Knapp Street  
Milwaukee, WI 53202-2828  
414-727-9455  
FAX: 414-727-6385

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**Comments of Jesus Rodriguez and Hispanics for Leadership on Proposed Maps**

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Jesus Rodriguez is President of St. Anthony School in Milwaukee, the largest Catholic school in the United States as well as the largest Latino school in Wisconsin. St. Anthony's is situated in the heart of old Assembly District 8 and within any of the redrawn districts, whether under Act 43 or the remedial maps proposed here. Mr. Rodriguez is also the President of Hispanics for School Choice, President of the Milwaukee's Catholic Association of Latino Leaders and the spokesperson for Hispanics for Leadership, an unincorporated group of Hispanic leaders. He submits these comments in response to the maps proposed by the Plaintiffs and Defendants.

Rodriguez and Hispanics for Leadership believe that the original lines drawn for Assembly Districts 8 and 9 in Act 43 provided Hispanics the greatest opportunity to maximum political representation over the next 10 years. Hispanic voters have consistently been able to elect their chosen candidate in old Assembly District 8 and we are confident that they would have continued to do so under the lines drawn by Act 43. In addition, Assembly District 9 would be established as a Hispanic opportunity district and, we believe, would also - soon if not immediately - elect a Hispanic preferred candidate, eventually becoming a Hispanic majority district.

But the Court did not agree and it is not our desire (or prerogative) to re-litigate those issues here. What we do urge is that the Court keep in mind the history of Assembly District 8, the reality of coalition voting and the potential for maximizing Hispanic influence in a way that will not happen if, as plaintiffs desire, the Court's remedy packs as many Hispanic voters as possible into AD 8. While we understand that this panel concluded that the past success of Latino voters in electing their preferred candidates in AD 8 was not enough to save the district as it was drawn under ACT 43,

the district found to have violated the Voting Rights Act was, in the Court's view, substantially different than old AD 8. It retained only 55% of the old district's voters. Each of the alternatives submitted on Tuesday not only increases the percentage of Hispanic voters in AD 8, but substantially increases the core retention rate of the district. Anywhere from approximately 69-70% (under the Defendant's proposals) to 75% (under the Plaintiffs') of old AD 8 will be retained.

Under these circumstances, the argument that what has happened in the past -- as opposed to academic projections - is the best indication of what will happen in the future carries more and, we would submit, almost dispositive rate. There is every reason to believe that a district that is substantially similar to old AD 8 while containing even more Hispanic voters will continue to elect the Hispanic candidate of choice.<sup>1</sup>

The "Joint Plaintiffs Proposed Remedy" needlessly exceeds the Court's expectation and unnecessarily inhibits the growing political strength of the Latino community. By starting with 55.22% in 2010, HCVAP would increase to over 66% by the 2020 election cycle. As noted above, given the past history of Assembly District 8 (the overwhelming majority of which is now retained), this is far more than has been required to elect a Hispanic candidate of choice.

In addition, the Plaintiffs' proposed map is not as compact, curling AD 9 around AD 8 while splitting six different voting wards. We believe this is a result of deliberately trying to overpack the 8th District with HCVAP.

In contrast, the Defendants' MAP 1 is the best alternative to the original districts drawn in Act 43. MAP 1 is compact and doesn't split any voting wards. It also keeps the important business districts in AD8. It does not needlessly pack Hispanics into AD8 and allows the greatest opportunity for a second "effective majority" in AD9.

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<sup>1</sup> This is particularly so given that the Defendants' maps remove from AD 8 those areas around Wilson Park thought to be most unlike old AD 8.

MAP 1 uses Dr. Mayer's methodology to identify the HCVAP. Based on Dr. Morrison's growth projection of 1.1% HCVAP/year, AD8, as defined by Map 1, would be anywhere between 51% and 53.5% HCVAP in the 2012 election cycle and grow to between 59.8% and 62.3% by 2020. It would retain almost 70% of the voters in old AD 8 which has consistently elected the Latino candidate of choice with HCVAP at much lower levels.

Just as importantly, AD9 would start with between 41.2% and 43.7% HCVAP in 2012 and grow to between 50% and 52.5% by 2020. If past is prologue, AD 9 will also allow Latino voters a strong opportunity to elect the candidate of its choice. MAP 1 satisfies the Court's suggestion for an "effective majority" and still gives the Latino community its best chance to reflect its growth in a second district. The Plaintiffs' map would not help the Latino community but frustrate its growing political power over the next ten years.

While this "packing" of Hispanic voters may make the current incumbent feel even more secure than she currently is, it comes at a cost. At the same time that Assembly District 8 reaches HCVAP levels far in excess of those that existed while it easily elected Pedro Colon and JoCasta Zamarripa, Hispanic voters will never reach an "effective majority" in AD9 over the same ten years; topping out at a mere 45% in 2020.

We agree that enabling Hispanics to elect their candidate of choice in AD8 is important. However, it was also legitimate for the legislature to draw the lines between ADs 8 and 9 in way that would allow AD9 to organically grow into an "effective majority" district as soon as possible. Perhaps it didn't get it right, but, to paraphrase this Court, Map 1 gives the Latino community the opportunity to have one in the hand *and* one in the bush. While attempting to do so

might this may not have been legally required, it was, if done right, legally permitted.<sup>2</sup> In keeping with the Supreme Court's admonition in *Perry v. Perez*, 555 U.S. \_\_\_, 132 S. Ct. 934, 941 (2012) that any remedial plan defer as much as possible to the lines and objectives of a legislative plan, respecting this aspect of Act 43's approach to Ads 8 and 9 insofar as is consistent with the Voting Rights Act is essential.

Dated this 5<sup>th</sup> day of April, 2012.

Respectfully submitted,  
WISCONSIN INSTITUTE FOR LAW &  
LIBERTY, Inc., Attorneys for Amicus, Rodriguez

/s/ Richard M. Esenberg  
Richard M. Esenberg, WI Bar No. 1005622  
414-727-6367  
rick@will-law.org

MAILING ADDRESS:

Wisconsin Institute for Law & Liberty, Inc.  
1139 E. Knapp Street  
Milwaukee, WI 53202-2828  
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FAX: 414-727-6385

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<sup>2</sup> In this regard, this case is wholly unlike *LULAC v. Perry*, 548 U.S. 399 (2006) in which a Republican legislature was found to have acted to frustrate a growing Hispanic community that seemed about to – but had not yet – elected a candidate of the community's choice. Here, Assembly District 8 has not been held by a member of the party drawing the maps and it's delineation of AD 8 and 9 could not have conferred any partisan advantage. In light of that, *Perez's* call for deference to legislative choices in fashioning a remedy is particularly appropriate.

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**DISCLOSURE  
STATEMENT**



The Undersigned, counsel of record for Jesus Rodriguez and Hispanics for Leadership, Amici, furnishes the following list in compliance with Civil L. R. 7.1 and Red. R. Civ. P. 7.1:

- (1) Name of Amicus Parties: Jesus Rodriguez and Hispanics for Leadership.
- (2) Amicus Corporate Status: Mr. Rodriguez is an individual and not a corporation. Hispanics for Leadership is an unincorporated association of individuals.
- (3) The Wisconsin Institute for Law & Liberty is the only firm expected to appear for Mr. Rodriguez.

Dated this 5<sup>th</sup> day of April, 2012.

Respectfully submitted,  
WISCONSIN INSTITUTE FOR LAW &  
LIBERTY, Inc., Attorneys for Amicus, Rodriguez

/S/ Richard M. Esenberg  
Richard M. Esenberg, WI Bar No. 1005622  
414-727-6367  
[rick@will-law.org](mailto:rick@will-law.org)

MAILING ADDRESS:

Wisconsin Institute for Law & Liberty, Inc.  
1139 E. Knapp Street  
Milwaukee, WI 53202-2828  
414-727-9455  
FAX: 414-727-6385

**Brandt, Karen J (15243)**

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**From:** ecfmaster@wied.uscourts.gov  
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**United States District Court**

**Eastern District of Wisconsin**

**Notice of Electronic Filing**

The following transaction was entered by Esenberg, Richard on 4/5/2012 at 4:40 PM CDT and filed on 4/5/2012

**Case Name:** Baldus et al v. Brennan et al  
**Case Number:** 2:11-cv-00562-JPS-DPW-RMD  
**Filer:** Hispanics for Leadership  
**WARNING: CASE CLOSED on 03/22/2012**  
**Document Number:** 227

**Docket Text:**

**MOTION for Leave to Appear Amicus Curiae by Hispanics for Leadership. (Attachments: # (1) Comments on Redistricting Maps, # (2) Disclosure Statement)(Esenberg, Richard)**

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Aaron H Kastens [ahkastens@michaelbest.com](mailto:ahkastens@michaelbest.com), [mlcrimmins@michaelbest.com](mailto:mlcrimmins@michaelbest.com)

Adam B Stephens [astephens@milwaukee.gov](mailto:astephens@milwaukee.gov)

Brady C Williamson [bwilliam@gklaw.com](mailto:bwilliam@gklaw.com), [agrote@gklaw.com](mailto:agrote@gklaw.com), [jschwartz@gklaw.com](mailto:jschwartz@gklaw.com)

Colleen E Fielkow [cfielkow@reinhardtlaw.com](mailto:cfielkow@reinhardtlaw.com), [kkempski@reinhardtlaw.com](mailto:kkempski@reinhardtlaw.com)

Daniel Kelly [DKelly@reinhardtlaw.com](mailto:DKelly@reinhardtlaw.com), [aschneik@reinhardtlaw.com](mailto:aschneik@reinhardtlaw.com)

Daniel S Lenz [dlenz@lawtoncates.com](mailto:dlenz@lawtoncates.com)

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